

VZCZCXYZ0002
OO RUEHWEB

DE RUEHBO #3145/01 2811623
ZNY CCCCC ZZH
O R 081622Z OCT 09
FM AMEMBASSY BOGOTA
TO RUEHC/SECSTATE WASHDC IMMEDIATE 0261
INFO RHEHAAA/NATIONAL SECURITY COUNCIL WASHINGTON DC
RHMFSS/CDR USSOUTHCOM MIAMI FL
RHMFSS/DEPT OF JUSTICE WASHINGTON DC
RHMFSS/FBI WASHINGTON DC
RUEAIIA/CIA WASHINGTON DC
RUEHBR/AMEMBASSY BRASILIA 0071
RUEHBU/AMEMBASSY BUENOS AIRES 0045
RUEHCV/AMEMBASSY CARACAS 0099
RUEHLP/AMEMBASSY LA PAZ NOV MEXICO 0040
RUEHPE/AMEMBASSY LIMA 0106
RUEHSG/AMEMBASSY SANTIAGO
RUEHZP/AMEMBASSY PANAMA 0098

C O N F I D E N T I A L BOGOTA 003145

SIPDIS

E.O. 12958: DECL: 2019/10/08
TAGS: PGOV PHUM KJUS KDEM CO
SUBJECT: CRITICS CHARGE URIBE THIRD TERM BAD FOR DEMOCRACY

REF: BOGOTA 3047; BOGOTA 2482; BOGOTA 1853

CLASSIFIED BY: William R. Brownfield, Ambassador; REASON: 1.4(B), (D)

SUMMARY

¶1. (C) President Alvaro Uribe's approval ratings remain steady at around 70% and he is expected to secure approval from the Constitutional Court for a referendum on reelection. Critics from across the ideological spectrum argue that a third term for President Uribe would further erode the quality of Colombian democracy by undermining the Constitution's attempts to limit executive powers. They contend that Uribe's current second term --originally banned under the Constitution-- has already let him amass too much control over institutions that were designed to be relatively autonomous, and that the situation would worsen in a third term. Opponents also allege Uribe has too much power over the Congress, and that he is using his high popularity ratings to circumvent the Constitution. Many critics claim the Administration used unsavory tactics to pass the bill allowing a reelection referendum through Congress. Uribe and his supporters deny his moves represent a threat to democracy, pointing out that the quality of life in the country has improved substantially since Uribe took office in 2002, and that the President's sky-high ratings mean he should not be turned out of office. The USG does not have a vote in the final outcome; we do have a voice in the process by which it is reached. End Summary.

CRITICS: SECOND TERM HAS
ALREADY UNDERMINED CONSTITUTION

¶2. (C) Critics from across the ideological spectrum assert that Uribe at a minimum is trying to re-establish a stronger executive than the 1991 Constitution allows. Uribe has said publicly that the Constituent Assembly that wrote the Constitution "exceeded its mandate" in limiting the will of voters, and he has recently questioned the legitimacy of the process that generated the Constitution. Many moderate commentators think the President is

trying to redress more fundamental problems he and other political conservatives see in the Constitution, which curbed presidential powers while empowering Congress, the courts and other institutions. Most presidents since 1991 believe the Constitution went too far and have worked to regain at least some of their lost strength, according to Monica Pachon, professor of political science and head of the 'Congreso Visible' project. However, former president (1990-1994) Cesar Gaviria of the Liberal Party, who shepherded the 1991 Constitution to passage, publicly charged that Uribe is "dedicated to delegitimizing" the Constitution and would use his third term to move Colombia back to the stronger presidency of the 1886 Constitution.

¶3. (C) Specifically, many argue that a second reelection would further undermine the institutional checks and balances in the Constitution by giving Uribe too much control over institutions such as the Prosecutor General, the Central Bank, some of the high courts, and the National Electoral Council --all of which were set up to be autonomous from the presidency. Camilo Gonzalez of the think tank Indepaz told us the Constitution's framers designed these institutions with staggered terms to overlap one-term presidencies, reducing the influence any one executive would exert over them. Uribe's first reelection, argued Gonzalez, began a process of power concentration that would intensify in the event of

a second reelection. In the same vein, the think tank DeJusticia released an analysis in early October suggesting Uribe's longevity in office has already let his Administration gradually assume control over these key institutional counterweights and use them for political ends --such as policy favors, pork-barrel projects and jobs for political loyalists. DeJusticia's convincing analysis of 14 "independent" government institutions shows that in 2005 (well into Uribe's first term), the Administration only had influence over 3 of them, while in 2009, the President has some degree of control over 9 of them. Per DeJusticia and a statement issued by the surviving members of the 1991 Constituent Assembly, the constitutional change allowing Uribe's current second term has already upset the checks and balances included in the 1991 Constitution.

¶4. (C) Opponents say the Administration has been able to combine these institutional controls with Uribe's high popularity to wield great power with the Congress and erode its independence. Uribe's legislative coalition now controls about 68% of the Senate and 66% of the House, and emerged from a September party shift (ref A) more concentrated and united around the "U" and Conservative Parties, which gained seats at the expense of their smaller partners. The two parties alone now control approximately 52% (up from 37%) of the Senate and 48% (up from 40%) of the House. Independent presidential candidate (and former Bogota mayor) Luis "Lucho" Garzon told us he assesses Uribe and his allies are trying to assemble a "bulletproof" legislative majority that would let him overhaul still-independent institutions such as the Supreme Court. The Court --the biggest remaining counterweight to Uribe-- has blocked Uribe's nominees for Prosecutor General on the grounds that the nominees are not qualified, and is investigating congressional representatives for potential misdeeds in passing the referendum through Congress (ref C).

URIBE'S "ESTADO DE OPINION"

¶5. (C) Critics also worry about the President's quasi-ideology of letting popular opinion hold sway on key societal issues such as the presidential reelection. In a July 20 speech to Congress, Uribe asserted that Colombia now enjoyed a "Rule of Opinion" ("estado de opinion") that was the "superior phase" of the "Rule of Law" ("estado de derecho"). The President characterized the "Rule of Opinion" --which he has mentioned on other occasions-- as the

culmination of a historical process of taking political power away from autocrats and giving it to the people. Uribe further suggested that such a system would reduce the power of the judicial branch and the media, and let public opinion influence the legislative agenda.

¶6. (C) Uribe's emphatic but vague references left observers scratching their heads, but convinced he hopes to use his high popularity to stand for a third term. The President's job approval ratings remain in the 70% range. A September 28-29 Ipsos nationwide poll asked respondents if they had a favorable or unfavorable image of 15 potential presidential candidates. Uribe crushed his opponents with 78% responding "favorable" and only 19% responding "unfavorable." The same poll indicates that about two-thirds of Colombian voters say they would vote if the referendum were held (Colombian law requires 25% turnout for the referendum to be valid), and 88% of those who would turn out say they would vote to allow Uribe a third term. These extraordinary ratings reflect the Colombian public's deep satisfaction over Uribe's improvements to their security and overall quality of life. Uribe reinforces this theme via a constant schedule of town hall meetings throughout the country. President Chavez' sporadic saber-rattling only boosts Uribe's popularity.

¶7. (C) Opinion makers in the print media are suspicious of Uribe's commitment to democracy. Onetime Uribe supporters such as leading national daily "El Tiempo" editor Enrique Santos Calderon and journalist Maria Isabel Rueda have turned against a third term, and Senator Efrain Torrado of Uribe's "U" party (and First Vice President of the Senate) told us in mid-July that many in the party do not believe Uribe is a "man of the law" who can be trusted to lead Colombia into the future. "El Tiempo" worried in a July 26 editorial that Uribe's statements recalled a 1953 military coup, and it warned in an August 20 editorial about the possibility of a "tyranny of opinion." Similarly, influential financial columnist Juan Manuel Lopez of "Dinero" magazine fears the concept could be used arbitrarily to limit minority rights. Still others, including opposition Alternative Democratic Pole party Secretary General Carlos Bula and Leon Valencia of center-left think tank Corporacion Nuevo Arco Iris, believe the "Rule of Opinion" is sophisticated rhetoric aimed at masking a straightforward power grab.

REFERENDUM RECONCILIATION A SEMINAL EVENT

¶8. (C) For many Uribe opponents, the Administration's actions in the congressional reconciliation of the bill allowing a referendum on a consecutive third term highlight all of the above complaints. By late July, the reelection effort appeared to be stuck in Congress and running out of steam, with leading media reporting the referendum was dead and even staunch Uribe supporters like Jose Obdulio Gaviria privately expressing pessimism about the bill's chances (ref B). Nevertheless, the bill passed through both chambers by early September after an arduous process and strong vote-whipping by Interior Minister Valencia Cossio. A range of observers allege that only a "fire sale" of political favors can explain how the three-month logjam in Congress was broken.

¶9. (C) There are numerous accounts alleging that the government and "U" Party promised positions, projects, campaign funding, and other spoils --all made possible by the Administration's widespread control of institutions-- in exchange for congressional votes. Liberal presidential candidate Rafael Pardo alleged the government had used about \$110 million from a fund targeted at security to buy votes, while onetime Uribe ally and now presidential candidate German Vargas Lleras of the Radical Change party said congressional

representatives had been strong-armed into voting for the measure. Independent presidential candidate Sergio Fajardo charged that "all kinds of corruption" had taken place to swing the vote. Inspector General Alejandro Ordóñez announced his office would investigate the charges. Liberal Party Secretary General José Noé Ríos, Indepaz' Camilo González, and longtime congressional advisor Cesar Barrera separately told us the corruption and arm-twisting were so brazen that the next Congress is likely to be severely hobbled by a long series of hearings that will make the parapolitical scandal pale in comparison.

URIKE AND ALLIES DENY ILL MOTIVES

¶10. (SBU) Uribe and his supporters deny his moves represent a threat to democracy. Uribe argued in July that the "Rule of Opinion" represents a higher form of democracy, asserting it

strikes a balance between citizen participation and representation. In terms of the reelection, "U" Party Secretary General Mario Solano told us he sees the passage of the public-initiated referendum as the reflection of the "will of the people." Uribe and his allies value democracy, says Camilo González, but think the GOC's first priority must be security and are focused on changing laws accordingly.

COMMENT

¶11. (C) The "Rule of Opinion" sounds eerily like the neo-populist justifications heard from some of Colombia's neighbors. Unlike some of his neighbors, however, Uribe tends to stay within the rules and not violate the Constitution. Rather, the "Rule of Opinion" is Uribe's justification for bringing his overwhelming popular support to bear on Colombia's institutions as he carries out his programs and lobbies for reelection. More worrisome is the ever increasing influence the Administration has over institutions that were intended to be independent, coupled with Uribe's strengthening majority in both chambers of the Congress. Critics argue that the President has more power than a single branch of a three-branch democratic government should have, but it is clear that the majority of Colombians are willing to accept that imbalance in order to maintain the effective Uribe as their leader.

AMBASSADOR'S COMMENT

¶12. (C) Two fundamental democratic principles are at play: the preservation of democratic institutions on the one hand, and the right of the people to decide their system of government on the other. How those two principles play out will be the lead drama in Colombia for the next eight months. While I tilt toward the first principle, this is not our decision to make. We do, however, have every right to speak out to ensure the decision is made in accordance with basic international standards of democratic process and rule of law.

BROWNFIELD